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Direct Request (CEACR) - adopted 2023, published 112nd ILC session (2024)

Italy

[Labour Inspection Convention, 1947 \(No. 81\)](#) (Ratification: 1952)

[Labour Inspection \(Agriculture\) Convention, 1969 \(No. 129\)](#) (Ratification: 1981)

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In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No.

129. Additional functions entrusted to labour inspectors related to conciliation. The Committee notes that, in reply to its previous comment, the Government refers in its report to the importance of the monocratic conciliation procedure, established pursuant to section 11 of the Legislative Decree No. 124/2004. The Government indicates that such conciliation does not entail the risk of interfering with and/or diverting labour inspectors from their primary functions, but rather represents a valuable tool for protecting workers' rights and ensuring the correct implementation of labour legislation and contractual provisions. According to the Government, the monocratic conciliation guarantees protection of workers by avoiding the burdens related to judicial and administrative procedures. The Committee notes that, according to section 11 of the Legislative Decree No. 124/2004, the monocratic conciliation is limited to issues connected with unpaid wages and social security contributions, and labour inspectors have the discretion to decide whether to pursue it. If no agreement is reached by the parties during the conciliation, the labour inspector will proceed with an inspection, which will not be limited to the worker's complaint but will include all the activities of the employer. If the inspection finds that the worker's complaint is justified, a certified notice of findings will be issued, obliging the employer to pay what is due. The Committee also notes that, according to the data provided by the Government, the number of complaints received by labour inspectors and dealt with by means of conciliation have been increasing in the past few years (11,964 cases in 2020, 12,581 in 2021 and 14,020 in 2022). ***The Committee requests the Government to provide information on the proportion of time spent by labour inspectors in carrying out procedures related to monocratic conciliation compared to the time spent on performing their primary duties in accordance with Article 3(1) of Convention No. 81 and Article 6(1) of Convention No. 129.***

Articles 5 and 16 of Convention No. 81 and Articles 12 and 21 of Convention No. 129. Co-operation with other Government services. Inspections as often as is necessary to ensure the effective application of the relevant legal provisions. The Committee notes that, in

reply to its previous comment concerning the coordination between the National Labour Inspectorate (INL) and the inspection departments of the Local Health Agencies (ASL), the Government indicates that in July 2022 an agreement was concluded between the Government, the Regions and the Autonomous Provinces of Trento and Bolzano on “Operational directions for control and supervisory activities, pursuant to section 13 of Legislative Decree No. 81/2008, as amended by Law Decree No. 146 of October 21, 2021”. This agreement aims at ensuring the continuity of administrative action and enhancing the national coordination of workplace health and safety supervisory activities by the INL and the ASL. With regard to statistics on inspections, the Government indicates that 17,035 establishments were inspected during 2022 (compared with 13,924 in 2021 and 10,069 in 2020). In addition, 16,037 inspections were finalized, under which health and safety offenses were contested against 13,237 enterprises, with an overall incidence of non-compliance of 83 per cent. A total of 27,126 offenses were found as a result of the inspections, of which 25,594 of a criminal nature (equal to 94 per cent) and 1,532 of an administrative nature (equal to 6 per cent). In relation to the 25,594 criminal violations charged in 2022, 24,980 were related to occupational health and safety (OSH) offences. The Government notes that the preponderance of criminal offenses found depends on the fact that OSH matters are largely governed by sanctions of a criminal nature. The Committee takes note of this information which addresses its previous request.

Article 6 of Convention No. 81 and Article 8(1) of Convention No. 129. Independence of labour inspectors. Following its previous comment, the Committee notes the Government’s indication that in the period between 2020 and the first half of 2023, there were nine disciplinary proceedings pursued against inspection personnel (four in 2021 and five in 2022). None of the defined proceedings involved criminal matters. For three of these cases, the conduct was sanctioned with suspension from duty and salary for two days, five days and four months, respectively, while the others were sanctioned with a fine. The Committee also notes the detailed information provided by the Government concerning the nature of the violations identified in those cases. In addition, the Government indicates that two cases, one opened in 2022 and one in 2023, involved criminal responsibilities and are pending the outcome of the related proceedings. These cases refer to offenses under the following provisions of the criminal code: section 479 (intentional false statement by a public official in an authentic instrument), section 640 (fraud), section 323 (abuse of office) and section 361 (failure to report a crime by a public official). The Committee takes notes of this information which addresses its previous request.

Articles 7 and 10 of Convention No. 81 and Articles 9 and 14 of Convention No.

129. Number of labour inspectors for the effective discharge of the duties of the inspectorate. Training. Following the Committee’s previous comment and with reference to the conclusions of the Committee on the Application of Standards (CAS), the Government indicates that, to date, the number of actual recruitments is of 327 officials (administrative, socio-statistical and IT staff), 435 ordinary labour inspectors and 548 technical inspectors. The recruitment of an additional 129 technical inspectors is scheduled for September 2023. Final selections are being made from the ranked lists of candidates. Any positions not filled as a result of the procedures already activated may be subject to further

competitive procedures. With regard to training, the Committee notes the Government's indication that, following the expansion of INL's inspection powers on OSH by the Law Decree No. 146/2021, OSH training for inspectors were carried out in the form of two weekly sessions held virtually, involving all inspection staff. The training, which began in November 2021 and continued throughout 2022, intensified with the entry of newly hired inspectors in September 2022. Topics covered in 2021 included the role of the employer, delegation of functions, outdoor workers and workplaces, risk assessment, and the roles of the health and safety officer and the occupational health physician. During 2022, the focus was on other topics relevant to workplace health and safety, labour law, and social security and insurance, for a total of 290 hours of specialized training provided. The Government adds that an extraordinary training plan for newly hired technical inspectors is ongoing. ***The Committee requests the Government to continue to provide information on the progress made in the recruitment of new inspectors. The Committee also requests the Government to indicate whether inspectors are allocated to the different functions performed by the INL (such as OSH, labour conditions and social security inspections, conciliation, mediation in labour disputes etc.) and, if so, to provide information in this respect.***

Article 11 of Convention No. 81 and Article 15 of Convention No. 129. Material resources of the labour inspectorate.

Following its previous comment, the Committee notes the Government's indication that in 2022 there has been an increase of 17.6 per cent in the expenditures for mission and travel allowances and that approximately €8 million have been allocated for the payment of mission-related expenses of the inspection staff. The Government indicates that the aim is to ensure an increase in the number of inspections carried out annually with the target of reaching a 20 per cent increase by 2024 from the numbers recorded for the 2019–21 period. The Government also notes that the training budget in 2022 increased by 61.5 per cent in comparison to 2021, mostly in order to meet the OSH training needs of inspectors. With regard to the budget of the INL raised from the allocation of funds resulting from penalties imposed by labour inspectors, the Government indicates that the limit established by the Law Decree No. 145/2013 and updated by Law No. 145/2018, is of €13 million. On the utilization of such budgetary resources, the Government states that a quota of 5 per cent is dedicated to the financing of equipment used for the performance of inspection activities, as well as for leasing of mobile telephone devices for the inspection teams as provided by the Directorate Decree No. 40/2022 on the financing of material for the efficiency of inspection functions. The Government indicates that the total budget for the provision of IT equipment for the first year of service of every new inspector can be roughly estimated at €2,600. ***The Committee requests the Government to continue to provide information on the financial and material resources allocated to the labour inspectorate in view of the progressive recruitment of new inspectors.***

Article 13 of Convention No. 81 and Article 18 of Convention No. 129. Measures with immediate executory force.

In reply to the Committee's previous comment, the Government indicates that measures with immediate executory force can only be ordered by inspectors: (i) in case of serious violations in the field of health and safety at work as set out in Annex I of the Legislative Decree No. 81 of 8 April 2008 on the protection of health

and safety at the workplace; and (ii) when at the time of the inspection, at least 10 per cent of the workers have not had their contract communicated to the competent Centre for the Employment or are classified as casual self-employed workers in the absence of the conditions established by law. The Government indicates that, in view of the consequences of the suspension measure, and in accordance with the general principles of the national legal system, it is not possible to use an extensive interpretation of the rule in question and to apply it to situations that are not expressly provided for by the law. The Government refers to other measures that can be adopted by the labour inspector in case of OSH violations, such as the formal notice issued to the employer with a deadline for compliance. ***The Committee requests the Government to indicate whether, in accordance with Article 13(3) of Convention No. 81 and Article 18(3) of Convention No. 129, labour inspectors have the right to apply to the competent authority for the issuance of orders or for the initiation of measures with immediate executory force for situations presenting an imminent danger to health or safety which are not included in the list of Annex I of the Legislative Decree No. 81 of 8 April 2008. If labour inspectors currently do not have such a right, the Committee requests that the Government provide information on legislative measures to be taken or contemplated that will provide this right.***

Articles 20 and 21 of Convention No. 81 and Articles 26 and 27 of Convention No. 129. Content of annual labour inspection reports. The Committee notes that, in reply to its previous comment, the Government indicates that, to date, the annual labour inspection reports indicate only the number of workers protected through the inspection activity but not the total number of workers employed at the establishment subject to inspection. The Government indicates that the information system in use does not allow this data to be extracted. However, as part of the actions already undertaken to improve the effectiveness and completeness of INL's information systems, it will be possible, among other things, to obtain information on the total number of workers employed in the individual establishment at the time of the inspection. In this respect, the Committee recalls its [2006 General Survey on Labour Inspection](#), paragraph 326, in which it indicated that statistics on the number of workplaces liable to inspection and the number of workers employed therein are essential for the evaluation of the resources needed by the labour inspectorate and that without these figures it is impossible to assess the level of coverage by inspection as against the number of workplaces liable to inspection. ***Therefore, the Committee requests the Government to continue to provide information on the measures adopted in order to ensure that the labour inspection reports include statistics on the number of workplaces liable to inspection and the number of workers employed therein, in accordance with Article 21(c) of Convention No. 81 and Article 27(c) of Convention No. 129. The Committee also requests the Government to continue to provide information on the measures taken in order to improve the effectiveness of the INL's information system, including any initiative undertaken in order to establish an integrated database in coordination with the different agencies and bodies performing labour inspection duties, as requested by the CAS.***